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CHAPTER 81.

An Act respecting Indians.

SHORT TITLE.

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1. This Act may be cited as the Indian Act. R.S., c. 43, Short title.
s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a) 'Superintendent General' means the Superintendent General of Indian Affairs, and 'Deputy Superintendent General' means the Deputy Superintendent General of Indian Affairs; Definitions.
'Superintendent General.'
- (b) 'agent' or 'Indian agent' means and includes a commissioner, assistant commissioner, superintendent, agent or other officer acting under the instructions of the Superintendent General; 'Agent.'
'Indian agent.'
- (c) 'person' means an individual other than an Indian; 'Person.'
- (d) 'band' means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common, of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; and, when action is being taken by the band as such, means the band in council; 'Band.'
- (e) 'irregular band' means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown; 'Irregular band.'
- (f) 'Indian' means 'Indian.'
- (i) any male person of Indian blood reputed to belong to a particular band,
- (ii) any child of such person,
- (iii) any woman who is or was lawfully married to such person;
- (g) 'non-treaty Indian' means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada; 'Non-treaty Indian.'

- 'Enfranchised Indian.' (h) 'enfranchised Indian' means any Indian, his wife or minor unmarried child, who has received letters patent granting to him in fee simple any portion of the reserve which has, upon his application for enfranchisement, been allotted to him, or to his wife and minor children, or any unmarried Indian who has received letters patent for an allotment of the reserve;
- 'Reserve.' (i) 'reserve' means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains so set apart and has not been surrendered to the Crown, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein;
- 'Special reserve.' (j) 'special reserve' means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of and held in trust for any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued, or in a person or persons of European descent;
- 'Indian lands.' (k) 'Indian lands' means any reserve or portion of a reserve which has been surrendered to the Crown;
- 'Intoxicants.' (l) 'intoxicants' means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compounded liquors, or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium, and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid;
- 'Territories.' (m) 'Territories' means the Northwest Territories and the Yukon Territory. R.S., c. 43, s. 2.

PART I.

INDIANS.

Application.

Governor in Council may exempt from operation of this Part, and remove such exemption.

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Part, or from the operation of any one or more of the sections of this Part, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserve or Indian lands, or any portions of them, in any province in the Territories, or in any of them; and may again, by proclamation, from time to time, remove such exemption. R. c. 43, s. 3.

Department of Indian Affairs.

4. The Minister of the Interior, or the head of any other department appointed for that purpose by the Governor in Council, shall be the Superintendent General of Indian Affairs, and shall, as such, have the control and management of the lands and property of the Indians in Canada. R.S., c. 43, s. 4.

Any Minister may be appointed Superintendent of Indian Affairs.

5. There shall be a department of the Civil Service of Canada which shall be called the Department of Indian Affairs, over which the Superintendent General shall preside. R.S., c. 43, s. 5.

Department of Indian Affairs.

6. The Department of Indian Affairs shall have the management, charge and direction of Indian affairs. R.S., c. 43, s. 6.

Duties.

7. The Governor in Council may appoint,—

(a) an officer who shall be called the Deputy of the Superintendent General of Indian Affairs, and such other officers, clerks and servants as are requisite for the proper conduct of the business of the Department;

Appointments by Governor in Council.

(b) an Indian commissioner and an assistant Indian commissioner for the provinces of Manitoba, Saskatchewan and Alberta, and the Territories, or an Indian commissioner and an assistant Indian commissioner for Manitoba and that portion of Canada formerly known as the district of Keewatin, and an Indian commissioner and an assistant Indian commissioner for the provinces of Saskatchewan and Alberta and the Territories, except that portion formerly known as the district of Keewatin, and for the Yukon Territory;

(c) an Indian superintendent for British Columbia;

(d) a deputy governor. R.S., c. 43, ss. 7 and 8.

8. The Deputy Governor shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands.

Deputy Governor.

2. The signature of the Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. R.S., c. 43, s. 8.

May sign letters patent.

Schools.

9. The Governor in Council may make regulations, either general or affecting the Indians of any province or of any named band, to secure the compulsory attendance of children at school.

Regulations.

2. Such regulations, in addition to any other provisions deemed expedient, may provide for the arrest and conveyance to school, and detention there, of truant children and of children

Compulsory attendance.

ren who are prevented by their parents or guardians from attending; and such regulations may provide for the punishment, upon summary conviction, by fine or imprisonment, or both, of parents and guardians, or persons having the charge of children, who fail, refuse, or neglect to cause such children to attend school. 57-58 V., c. 32, s. 11.

Power to establish industrial schools.

10. The Governor in Council may establish an industrial school or a boarding school for Indians, or may declare any existing Indian school to be such industrial school or boarding school for the purposes of this and the next following section. 57-58 V., c. 32, s. 11.

Regulations.

11. The Governor in Council may make regulations, which shall have the force of law, for the committal by justices or Indian agents of children of Indian blood under the age of sixteen years, to such industrial school or boarding school, there to be kept, cared for and educated for a period not extending beyond the time at which such children shall reach the age of eighteen years.

As to application of annuities.

2. Such regulations may provide, in such manner as to the Governor in Council seems best, for the application of the annuities and interest moneys of children committed to such industrial school or boarding school, to the maintenance of such schools respectively, or to the maintenance of the children themselves. 57-58 V., c. 32, s. 11.

Membership of Band.

Exclusion of natural children from band.

12. Any illegitimate child may, unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution moneys of such band for a period exceeding two years, be, at any time, excluded from the membership thereof by the Superintendent General. R.S., c. 43, s. 9.

Loss of membership, through residence in a foreign country without leave.

13. Any Indian who has for five years continuously resided in a foreign country without the consent, in writing, of the Superintendent General or his agent, shall cease to be a member of the band of which he was formerly a member; and he shall not again become a member of that band, or of any other band, unless the consent of such band, with the approval of the Superintendent General or his agent, is first obtained. R.S., c. 43, s. 10.

Effect of marriage of Indian woman with any other than an Indian or a non-treaty Indian.

14. Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and

rents: Provided that such income may be commuted to her at any time at ten years' purchase, with the consent of the band.

2. Where a band has become enfranchised, or has otherwise ceased to exist, such commutation may take place upon the approval of the Superintendent General. R.S., c. 43, s. 11; 53 V., c. 29, s. 1.

If band
enfranchised.

15. Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member.

Marriage of
Indian
woman with
Indian of
another
band or
non-treaty
Indian.

2. If she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. R.S., c. 43, s. 12.

If she
marries
non-treaty
Indian.

16. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian.

As to half-
breeds in
Manitoba.
Half-breed
heads of
families.

2. No half-breed head of a family, except the widow of an Indian or a half-breed who has already been admitted into a treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian or entitled to be admitted into any Indian treaty.

3. Any half-breed who has been admitted into a treaty shall, on obtaining the consent in writing of the Indian commissioner, or in his absence the assistant Indian commissioner, be allowed to withdraw therefrom on signifying his desire so to do in writing, signed by him in the presence of two witnesses, who shall attest his signature on oath before some person authorized by law to administer such oath.

Withdrawal
from treaty.

4. Such withdrawal shall include the minor unmarried children of such half-breed. 51 V., c. 22, s. 1.

Minor
children.

17. When, by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereinto is assented to by the Superintendent General, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted.

Transfer of
Indian from
one band to
another.

2. The Superintendent General may cause to be deducted from the capital of the band of which such Indian was formerly a member his *per capita* share of such capital and place the same to the credit of the capital of the band into membership in which he has been admitted in the manner aforesaid. 58-59 V., c. 35, s. 8.

Share of
capital.

Determination of membership of band.

18. The Superintendent General may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band.

Decision of Supt. Gen.

2. The decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council. 50-51 V., c. 33, s. 1.

Reserves.

Reserves to be subject to this Part.

19. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held heretofore, but shall be subject to the provisions of this Part. R.S., c. 43, s. 14.

Surveys, plans, reports and subdivision into lots of reserves may be authorized.

20. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be subdivided into lots. R.S., c. 43, s. 15.

Possession of land in reserve.

21. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be dispossessed of any land on which he has improvements, without receiving compensation for such improvements, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General: Provided that prior to the location of an Indian under this section, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, the Indian commissioner may issue a certificate of occupancy to any Indian belonging to a band residing upon a reserve in the aforesaid provinces or territories, of so much land, not exceeding in any case one hundred and sixty acres, as the Indian, with the approval of the commissioner, selects.

Improvements.

Certificate of Indian Commissioner.

Cancellation of certificate by the Indian Commissioner.

2. Such certificate may be cancelled at any time by the Indian commissioner, but shall, while it remains in force, entitle the holder thereof, as against all others, to lawful possession of the lands described therein. R.S., c. 43, s. 16; 53 V., c. 29, s. 2.

Location ticket in triplicate.

22. When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; and the other two of which he shall forward to the local agent.

2. The local agent shall deliver to the Indian in whose favour it is issued one of such duplicates so forwarded, and shall cause the other to be copied into a register of the band, provided for the purpose, and shall file the same. R.S., c. 43, s. 17.

Delivery of
ticket to
Indian.

23. The conferring of any such location title shall not have the effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval of the Superintendent General, whose consent and approval shall be given only by the issue of a ticket, in the manner prescribed in the last preceding section. R.S., c. 43, s. 18.

Effect of
such ticket
limited.

24. Every Indian and every non-treaty Indian, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or the Territories, who had, previously to the selection of a reserve, possession of and who has made permanent improvements on a plot of land which upon such selection becomes included in, or surrounded by, a reserve, shall have the same privileges, in respect of such plot, as an Indian enjoys who holds under a location title. R.S., c. 43, s. 19.

Privileges of
Indians
having im-
proved lands
included in
reserves in
certain
provinces.

Descent of Property.

25. Indians may devise or bequeath property of any kind in the same manner as other persons: Provided that no devise or bequest of land in a reserve or of any interest therein unless to the daughter, sister or grand-children of the testator, shall be made to any one not entitled to reside on such reserve, and that no will purporting to dispose of land in a reserve or any interest therein shall be of any force or effect unless or until the will has been approved by the Superintendent General, and that if a will be disapproved by the Superintendent General the Indian making the will shall be deemed to have died intestate; and the Superintendent General may approve of a will generally and disallow any disposition thereby made of land in a reserve or of any interest in such land, in which case the will so approved shall have force and effect except so far as such disallowed disposition is concerned, and the Indian making the will shall be deemed to have died intestate as to the land or interest the disposition of which is so disallowed. 57-58 V., c. 32, s. 1.

Indians may
devise prop-
erty by
will.

26. Upon the death of an Indian intestate his property of all kinds, real and personal, movable and immovable, including any recognized interest he may have in land in a reserve, shall descend as follows:—

Distribution
of estate in
case of
intestacy.

(a) one-third of the inheritance shall devolve upon his widow, if she is a woman of good moral character, and the

One-third to
widow.

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remainder

Otherwise
children
inherit the
whole.

Representa-
tion of de-
funct heir.

Inheritance
per stirpes.

remainder upon his children, if all are living, or, if any who are dead have died without issue; or,

(b) If there is no widow, or if the widow is not of good moral character, the whole inheritance shall devolve upon his children in equal shares, if all are living, or, if any who are dead have died without issue;

(c) If one or more of the children are living, and one or more are dead, having had lawful issue, the inheritance so far as the same does not descend to the widow, shall devolve upon the children who are living, and the descendants of such children as have died, so that each child who is living shall receive such share as would have descended to him if all the children of the intestate who have died leaving issue had been living, and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living;

(d) If the descendants of the intestate entitled to share in the inheritance are of unequal degrees of consanguinity to the intestate, the inheritance shall devolve so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants who have died shall respectively take the shares which their parents, if living, would have received: Provided that the Superintendent General may, in his discretion direct that the widow, if she is of good moral character, shall have the right, during her widowhood, to occupy any land in the reserve of the band to which the deceased belonged of which he was the recognized owner, and to have the use of any property of the deceased for which, under the provisions of this Part, he was not liable to taxation.

Superinten-
dent General,
sole judge
of character
of widow.

2. The Superintendent General shall be the sole and final judge as to the moral character of the widow of any intestate Indian. 57-58 V., c. 32, s. 1.

Administra-
tion of prop-
erty of
minors.

27. During the minority of the children of an Indian who dies intestate, the administration and charge of the property to which they are entitled as aforesaid shall devolve upon the widow, if any, of the intestate, if she is of good moral character; and, in such case, as each male child attains the age of twenty-one years, and as each female child attains that age, or with the consent of the widow, marries before that age, the share of such child shall, subject to the approval of the Superintendent General, be conveyed or delivered to him or her.

Removal of
widow from
administra-
tion.

2. The Superintendent General may, at any time, remove the widow from such administration and charge and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires.

3. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and may remove such person and appoint another, and so, from time to time, as occasion requires. 57-58 V., c. 32, s. 1.

Appointment of suitable persons to take charge of such children.

28. In case any Indian dies intestate without issue, leaving a widow of good moral character, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the Indian nearest of kin to the deceased: Provided that any interest which he may have had in land in a reserve shall be vested in His Majesty for the benefit of the band owning such reserve if his nearest of kin is more remote than a brother or sister. 57-58 V., c. 32, s. 1.

Death of Indian without issue, widow to inherit, otherwise nearest of kin to inherit.

29. The property of a married Indian woman who dies intestate shall descend in the same manner and be distributed in the same proportions as that of a male Indian who dies intestate, her widower, if any, taking the share which the widow of such male Indian would take.

Descent of property of a married Indian woman.

2. The other provisions of this Part respecting the descent of property shall in like manner apply to the case of an intestate married woman, the word widower being substituted for the word widow in each case.

Idem.

3. The property of an unmarried Indian woman who dies intestate shall descend in the same manner as if she had been a male. 57-58 V., c. 32, s. 1.

Idem.

30. A claimant of land in a reserve or of any interest therein as devisee or legatee or heir of a deceased Indian shall not be held to be lawfully in possession thereof or to be the recognized owner thereof until he shall have obtained a location ticket therefor from the Superintendent General. 57-58 V., c. 32, s. 1.

In any case location ticket requisite for possession by heir.

31. The Superintendent General may decide all questions which arise under this Part, respecting the distribution among those entitled thereto of the property of a deceased Indian, and he shall be the sole and final judge as to who the persons so entitled are.

Superintendent General to decide disputes.

2. The Superintendent General may do whatsoever in his judgment will best give to each claimant his share according to the true intent and meaning of this Part, and to that end, if he thinks fit, may direct the sale, lease or other disposition of such property or any part thereof, and the distribution or application of the proceeds or income thereof, regard being always had in any such disposition to the restriction upon the disposition of property in a reserve. 57-58 V., c. 32, s. 1.

His powers.

32. Notwithstanding anything in this Part it shall be lawful for the courts having jurisdiction in that regard in

Probate and letters of

administra-
tion.

the case of persons other than Indians, with but not without the consent of the Superintendent General, to grant probate of the wills of Indians and letters of administration of the estate and effects of intestate Indians, in which case such courts and the executors and administrators obtaining such probate, or thereby appointed, shall have the like jurisdiction and powers as in other cases, except that no disposition shall, without the consent of the Superintendent General, be made of or dealing had with regard to any right or interest in land in a reserve or any property for which, under the provisions of this Part, an Indian is not liable to taxation. 57-58 V., c. 32, s. 1.

Trespassing on Reserves.

Only Indians
of the band
to reside on
or use the
reserve.

33. No person, or Indian other than an Indian of the band, shall without the authority of the Superintendent General, reside or hunt upon, occupy or use any land or marsh, or reside upon or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band.

Certain con-
tracts, etc.,
to be void.

2. All deeds, leases, contracts, agreements or instruments of whatsoever kind made, entered into, or consented to by any Indian, purporting to permit persons or Indians other than Indians of the band to reside or hunt upon such reserve, or to occupy or use any portion thereof, shall be void. 57-58 V., c. 32, s. 2.

Removal of
trespassers
and their
cattle, etc.

34. If any Indian is illegally in possession of any land on a reserve, or if any person, or Indian other than an Indian of the band, without the license of the Superintendent General,—

(a) settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh;
or,

(b) fishes in any marsh, river, stream or creek on or running through a reserve; or,

(c) settles, resides upon or occupies any road, or allowance for road, on such reserve;

the Superintendent General or such other officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith as the case may be,—

(a) to remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same; or,

Warrant.

(b) to remove such cattle or other animals from such land or marsh; or,

(c) to cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or,

(d) to notify such person or Indian to cease using, as aforesaid, the said lands, river, streams, creeks or marshes, roads or allowance for roads.

2. The person to whom such warrant is directed, shall execute the same, and, for that purpose, shall have the same powers as in the execution of criminal process. Execution.

3. The expenses incurred in any such removal or notification, or causing to cease fishing, shall be borne, as the case may be, by the person removed or notified, or caused to cease fishing, or who owns the cattle or other animals removed, or who has them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him. Costs.

4. Any such person or Indian other than an Indian of the band may be required orally or in writing by an Indian agent, a chief of the band occupying the reserve, or a constable, as the case may be,— Removal.

(a) to remove with his family, if any, from the land, marsh or road, or allowance for road, upon which he is or has so settled, or is residing or hunting, or which he so occupies; or,

(b) to remove his cattle from such land or marsh; or,

(c) to cease fishing in any such marsh, river, stream or creek as aforesaid; or,

(d) to cease using as aforesaid any such land, river, stream, creek, marsh, road or allowance for road. R.S., c. 43, s. 22; 54-55 V., c. 30, s. 1.

35. If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed as aforesaid,— Removal and punishment of persons returning after having been removed.

(a) returns to, settles, resides or hunts upon or occupies or uses as aforesaid any of the said land or marsh; or,

(b) causes or permits any cattle or other animals owned by him or in his charge to return to any of the said land or marsh; or,

(c) returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein; or,

(d) returns to, settles or resides upon or occupies any of the said roads or allowances for roads;

the Superintendent General, or any officer or person deputed or authorized, as aforesaid, upon view, or upon proof on oath before him, to his satisfaction, that the person or Indian has,—

- (a) returned to, settled, resided or hunted upon or occupied or used as aforesaid any of the said lands or marshes; or,
- (b) caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land or marsh; or,
- (c) returned to any marsh, river, stream or creek on or running through a reserve for the purpose of fishing therein; or,
- (d) returned to, settled or resided upon or occupied any of the said roads or allowances for roads;

Warrant to
sheriff to
arrest and
commit to
gaol.

shall direct and send his warrant, signed and sealed, to the sheriff of the proper county or district, or to any literate person therein, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, who may, on summary conviction, commit him to the common gaol of the said county or district, or if there is no gaol in the said county or district, or if the reserve is not situated within any county or district, then the gaol nearest to the said reserve in the province, there to remain for the time ordered in the warrant of commitment.

Limit of
imprison-
ment.

2. The length of imprisonment aforesaid shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence.

Direction of
warrant.

3. If the said reserve is not situated within any county or district, such warrant shall be directed and sent to some literate person within such reserve. R.S., c. 43, s. 23.

Arrest and
imprison-
ment.

36. Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the keeper of the proper gaol, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. R.S., c. 43, s. 24.

Judgment to
be drawn up
and filed.

37. The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office.

Final.

2. Such judgment shall not be appealed from, or removed by *certiorari* or otherwise, but shall be final. R.S., c. 43, s. 25.

Sale or Barter.

Governor in
Council may
make regu-
lations as to
sale or
barter of
produce by
Indians.

38. The Governor in Council may make regulations for prohibiting or regulating the sale, barter, exchange or gift by any band or irregular band of Indians, or by any Indian of any band or irregular band, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any grain or root crops, or other produce grown upon any reserve, and may further provide that such sale, barter, exchange or gift shall be null and void, unless the same are made in accordance with such regulations. R.S., c. 43, s. 30.

39. No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian, any grain, root crops, or other produce from upon any reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories. R.S., c. 43, s. 30.

Buying or
produce thus
obtained.

40. If any such grain or root crops, or other produce as aforesaid, are unlawfully in the possession of any person within the intent and meaning of this Part, or of any regulations made by the Governor in Council under this Part, any person acting under the authority, either general or special, of the Superintendent General, may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same; and he shall deal therewith as the Superintendent General, or any officer or person thereunto by him authorized, directs. R.S., c. 43, s. 31.

Superinten-
dent General
may cause
seizure of
produce and
lawfully pos-
sessed by
any person.

41. The Governor in Council may make regulations for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling. R.S., c. 43, s. 32.

Governor in
Council may
prohibit
cutting of
trees on
reserve.

42. No official or employee connected with the inside or outside service of the Department of Indian Affairs, and no missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, and no school teacher on an Indian reserve, shall, without the special license in writing of the Superintendent General, trade with any Indian, or sell to him directly or indirectly, any goods or supplies, cattle or other animals.

Trading with
Indians pro-
hibited with-
out license
of Superin-
tendent
General.

2. The Superintendent General may at any time revoke the license so given by him. 53 V., c. 29, s. 10; 57-58 V., c. 32, s. 10.

Revocation
of license.

43. No person shall barter directly or indirectly with any Indian on a reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or sell to any such Indian any goods or supplies, cattle or other animals without the special license in writing of the Superintendent General.

Bartering
with Indians
without a
license pro-
hibited.

2. The Superintendent General may, at any time, revoke the license by him given.

Revocation
of license.

3. Upon prosecution of any offender against the provisions of this and the last preceding section, the evidence of the Indian to whom the sale was made, and the production to, or view by, the magistrate or Indian agent of the article or animal sold, shall be sufficient evidence on which to convict. 53 V., c. 29, s. 10.

Evidence.

Roads and Bridges.

44. Indians residing upon any reserve shall be liable, if so directed by the Superintendent General, or any officer or person

Indians
liable to

work on
public roads
on reserves,
and to what
extent.

by him thereunto authorized, to perform labour upon the public roads laid out or used in or through, or abutting upon such reserve, which labour shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labour shall be applied, and to what extent the same shall be imposed upon any Indian who is a resident upon the reserve.

Powers of
Superinten-
dent General.

2. The Superintendent General, or person or officer aforesaid shall have the like power to enforce the performance of such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve is situated, for the non-performance of statute labour; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county or other local division, under the laws requiring and regulating such labour and the performance thereof. 61 V., c. 34, s. 1.

Power to
cause lands
to be laid
out in order.

45. Every band of Indians shall cause the roads, bridges, ditches and fences within its reserve to be put and maintained in proper order, in accordance with the instructions received, from time to time, from the Superintendent General, or from the agent of the Superintendent General.

Work may
be done at
expense of band.

2. Whenever in the opinion of the Superintendent General, such roads, bridges, ditches and fences are not so put or maintained in order, he may cause the work to be performed at the cost of the band, or of the particular Indian in default, as the case may be, either out of its or his annual allowances or otherwise. R.S., c. 43, s. 34.

Lands taken for Public Purposes.

Consent of
Governor in
Council.

46. No portion of any reserve shall be taken for the purposes of any railway, road or public work without the consent of the Governor in Council, and, if any railway, road, or public work passes through or causes injury to any reserve, or, if any act occasioning damage to any reserve is done under the authority of an Act of Parliament or of the legislature of any province, compensation shall be made therefor to the Indians of the band in the same manner as is provided with respect to the lands or rights of other persons.

Compensa-
tion.

Arbitration.

2. The Superintendent General shall, in any case in which an arbitration is had, name the arbitrator on behalf of the Indians, and shall act for them in any matter relating to the settlement of such compensation.

Payment.

3. The amount awarded in any case shall be paid to the Minister of Finance for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian who has improvements taken or injured. R.S., c. 43, s. 35; 50-51 V., c. 33, s. 5.

Surrender and Forfeiture of Lands in Reserve.

47. If, by the violation of the conditions of any trust respecting any special reserve, or by the breaking up of any society, corporation or community, or, if by the death of any person or persons without a legal succession or trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in His Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve.

Title to vest in His Majesty, if title of reserves held in trust lapses.

2. The trustees of any special reserve may, at any time, surrender the same to His Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve. R.S., c. 43, s. 37.

Surrender of certain reserves to His Majesty in trust.

48. Except as in this Part otherwise provided, no reserve or portion of a reserve shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Part: Provided that the Superintendent General may lease, for the benefit of any Indian, upon his application for that purpose, the land to which he is entitled without such land being released or surrendered, and may, without surrender, dispose to the best advantage, in the interests of the Indians, of wild grass and dead or fallen timber. 61 V., c. 34, s. 2.

Sale or release of reserves.

Proviso.

49. Except as in this Part otherwise provided, no release or surrender of a reserve, or a portion of a reserve, held for the use of the Indians of any band, or of any individual Indian, shall be valid or binding, unless the release or surrender shall be assented to by a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General.

Release or surrender of a reserve, when valid.

Assent of band.

2. No Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near, and is interested in the reserve in question.

Who may vote.

3. The fact that such release or surrender has been assented to by the band at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some of the chiefs or principal men present thereat and entitled to vote, before some judge of a superior, county or district court, stipendiary magistrate or justice of the peace, or, in the case of reserves in the province of Manitoba, Saskatchewan or Alberta, or the Territories, before the Indian commissioner, and

Proof of assent.

and in the case of reserves in British Columbia, before the visiting Indian Superintendent for British Columbia, or, in either case, before some other person or officer specially thereunto authorized by the Governor in Council.

Approval of
Governor in
Council.

4. When such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. R.S., c. 43, s. 39; 61 V., c. 34, s. 3.

Act not to
confirm
any
release or
surrender.

50. Nothing in this Part shall confirm any release or surrender which, but for this Part, would have been invalid; and no release or surrender of any reserve, or portion of a reserve, to any person other than His Majesty, shall be valid. R.S., c. 43, s. 40.

Indian lands
to be held
for the same
purpose as
heretofore.

51. All Indian lands which are reserves or portions of reserves surrendered, or to be surrendered, to His Majesty, shall be deemed to be held for the same purpose as heretofore; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Part. R.S., c. 43, s. 41.

Sale and Transfer of Indian Lands.

Effect of
certificate of
sale or
receipts.

52. Every certificate of sale or receipt for money received on the sale of Indian lands granted or made by the Superintendent General or any agent of his, so long as the sale to which such certificate or receipt relates is in force and not rescinded, shall entitle the person to whom the same is granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and unless the same has been revoked or cancelled, to maintain thereunder actions and suits against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown; but the same shall have no force against a license to cut timber existing at the time of the granting or making thereof.

Evidence of

2. Such certificate or receipt shall be *prima facie* evidence of possession by such person, or the assignee, under an instrument registered as aforesaid in any such action or suit. R.S., c. 43, s. 42.

Register of
sales and
leases.

53. The Superintendent General shall keep a book for registering, at the option of the persons interested, the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heirs or legal representatives of such assignee. R.S., c. 43, s. 43.

54. Upon any such assignment being produced to the Superintendent General, and, except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the place of such execution, and the names, residences and occupations of the witnesses, or, as to lands in the province of Quebec, upon the production of any such assignment executed in notarial form, or of a notarial copy thereof, the Superintendent General shall cause the material parts of the assignment to be registered in the said book, and shall cause to be endorsed on the assignment a certificate of such registration signed by himself or by the Deputy Superintendent General, or any other officer of the Department by him authorized to sign such certificates. 53 V., c. 29, s. 4.

Registration
of assignment
rights.

55. Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered.

Effect of
assignment
and registra-
tion.

2. No such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General.

Require-
ments.

3. Every assignment registered as aforesaid shall be unconditional in its terms. R.S., c. 43, s. 43.

Uncon-
ditional.

56. If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting, or the handwriting of the person making such assignment. R.S., c. 43, s. 44.

Proof for
registration.

57. No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void. R.S., c. 43, s. 110.

Agents not
to be inter-
ested in or
owners of
Indian lands.

Tax Sales.

58. Whenever the proper municipal officer having, by the law of the province in which the land affected is situate, authority to make or execute deeds or conveyances of lands sold for taxes, makes or executes any deed or conveyance purporting to grant or convey Indian lands which have been sold or located, but not patented, or the interest therein of the locatee or purchaser from the Crown, and such deed or conveyance recites or purports to be based upon a sale of such lands or such interest for taxes, the Superintendent General may approve of such deed or conveyance, and act upon and treat it as a valid transfer of all the right and interest of the original locatee or purchaser from the Crown, and of every person claiming under

Conveyance
of lands sold
for taxes.

Superinten-
dent General
may approve.

him in or to such land to the grantee named in such deed or conveyance.

Effect of
such ap-
proval.

2. When the Superintendent General has signified his approval of such deed or conveyance by endorsement thereon, the grantee shall be substituted in all respects, in relation to the land so conveyed, for the original locatee or purchaser from the Crown, but no such deed or conveyance shall be deemed to confer upon the grantee any greater right or interest in the land than that possessed by the original locatee or purchaser from the Crown. 51 V., c. 22, s. 2.

Issue of
patent.

59. The Superintendent General may cause a patent to be issued to the grantee named in such deed or conveyance on the completion of the original conditions of the location or sale, unless such deed or conveyance is declared invalid by a court of competent jurisdiction in a suit or action instituted by some person interested in such land within two years after the date of the sale for taxes, and unless within such delay notice of such contestation has been given to the Superintendent General. 51 V., c. 22, s. 2.

Time for
registration.

60. Every such deed or conveyance shall be registered in the office of the Superintendent General within two years from the date of the sale for taxes; and unless the same is so registered, it shall not be deemed to have preserved its priority, as against a purchaser in good faith from the original locatee or purchaser from the Crown, in virtue of an assignment registered prior to the date of the registration of the deed or conveyance based upon a sale for taxes as aforesaid. 51 V., c. 22, s. 2.

Cancellation.

In cases of
fraud, mis-
take, or non-
observance
of con-
ditions.

61. If the Superintendent General is satisfied that any purchaser or lessee of any Indian lands, or any person claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of the sale or lease, or if any such sale or lease has been made or issued in error or mistake, he may cancel such sale or lease and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made. R.S., c. 43, s. 46.

Ejectment.

Obtaining
possession
after such
cancellation,
in case of
resistance.

62. Whenever any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease thereof, as aforesaid, or whenever any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the Superintendent General may apply to the judge of the county court of the county or district in which the land lies, or to any judge of a superior court, or in the Northwest Terri-

ories to any stipendiary magistrate, for an order in the nature of a writ of *habere facias possessionem*, or writ of possession.

2. The said judge or magistrate, upon proof to his satisfaction that the right or title of the person to hold such land has been revoked or cancelled, as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order requiring the purchaser, lessee or person in possession to deliver up the same to the Superintendent General, or person by him authorized to receive such possession. Order as to writ of possession.

3. The order shall have the same force as a writ of *habere facias possessionem*, or writ of possession. Effect.

4. The sheriff, or any bailiff or person to whom it has been entrusted for execution by the Superintendent General, shall execute the same in like manner as he would execute such writ in an action of ejectment or a possessory action. Execution of order.

5. The costs of and incident to any proceedings under this section or any part thereof shall be paid by any party to such proceedings or by the Superintendent General, as the judge or magistrate orders. R.S., c. 43, s. 47; 54-55 V., c. 30, s. 3. Costs.

Rent.

63. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the same may be recovered,— Enforcing payment of rent due to the Crown.

(a) by warrant of distress issued by the Superintendent General or any agent or officer appointed under this Part and authorized by the Superintendent General to act in such cases, and with like proceedings thereon as in ordinary cases of landlord and tenant directed to any person or persons by him named therein; or

(b) by warrant of distress, and with like proceedings thereon as in case of a distress warrant by a justice of the peace for non-payment of a pecuniary penalty issued by him and directed as aforesaid; or

(c) by action of debt, as in ordinary cases of rent in arrear, brought therefor in the name of the Superintendent General.

2. Demand of rent shall not be necessary in any case. R.S., c. 43, s. 48. No demand required.

Powers of Superintendent General.

64. When by law or by any deed, lease or agreement relating to Indian lands, any notice is required to be given, or any act to be done by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent General. R.S., c. 43, s. 49. To lay and execute notice for the Crown.

65. Whenever it is found that, by reason of false survey or error in the books or plans in the Department of Indian Affairs, or in the late Indian branch of the Department of the Interior, Cases of delinquency of land.

any grant, sale or appropriation of land is deficient, or whenever any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of so much land as is deficient with the interest thereon from the time of the application therefor to be paid to the original purchaser in land or money as the Superintendent General directs.

Compensation.

2. If the land has passed from the original purchaser, and the claimant was ignorant of a deficiency at the time of his purchase, the Superintendent General may order payment as aforesaid of the purchase money for so much of the land as is deficient which the claimant has paid.

Limitation of time for claim.

3. No such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described as contained in the particular lot or parcel of land granted. R.S., c. 43, s. 52.

Game laws.

66. The Superintendent General may, from time to time, by public notice, declare that, on and after a day therein named, the laws respecting game in force in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or respecting such game as is specified in such notice, shall apply to Indians within the said province or Territories, as the case may be, or to Indians in such parts thereof as to him seems expedient. 53 V., c. 29, s. 10.

Witnesses may be summoned and examined under oath.

67. The Superintendent General, his deputy, or other person specially authorized by the Governor in Council, shall have power, by subpoena issued by him, to require any person to appear before him, and to bring with him any papers or writings relating to any matter affecting Indians, and to examine such person under oath in respect to any such matter.

Failure of witness to appear.

2. If any person duly summoned by subpoena as aforesaid neglects or refuses to appear at the time and place specified in the subpoena, or refuses to give evidence or to produce the papers or writings demanded of him, the Superintendent General, his deputy or such other person may, by warrant under his hand and seal, cause such person so refusing or neglecting to be taken into custody and to be imprisoned in the nearest common gaol as for contempt of court, for a period not exceeding fourteen days. 50-51 V., c. 33, s. 2.

Patents.

Patents how to be prepared, signed and registered.

68. Every patent for Indian lands shall be prepared in the Department of Indian Affairs, and shall be signed by the Superintendent General or his deputy or by some other person thereunto specially authorized by order of the Governor in Council, and, when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General,

and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned and the Great Seal thereto caused to be affixed: *Provido.* Provided that every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Part for that purpose. R.S., c. 43, s. 45.

69. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead; and upon being satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to issue accordingly: *Provido,* provided that nothing in this section shall limit the right of a person claiming a patent to land in the province of Ontario to make application at any time to the Commissioner, under the Act respecting claims to lands in Upper Canada for which no patents have been issued, being chapter eighty of the Consolidated Statutes of Upper Canada. R.S., c. 43, s. 45.

70. Whenever letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer, or wrong description of any material fact therein, or of the land thereby intended to be granted, the Superintendent General, if there is no adverse claim, may direct the defective letters patent to be cancelled, and a minute of such cancellation to be entered in the margin of the registry of the original letters patent, and correct letters patent to be issued in their stead.

2. Such correct letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent. R.S., c. 43, s. 50.

71. In all cases in which grants or letters patent have issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Superintendent General may, in cases of sale, cause a repayment of the purchase money, with interest.

2. When the land has passed from the original purchaser, or has been improved before a discovery of the error, the Superintendent General may, in substitution, assign land or grant a certificate entitling the person to purchase Indian lands of such value, and to such extent as he deems just and equitable under the circumstances: *Provido,* provided that no such claim shall be entertained unless it is preferred within five years from the discovery of the error. R.S., c. 43, s. 51.

72. Whenever patents for Indian lands have issued through fraud or in error or improvidence, the Exchequer Court of Canada may void patents.

issued in
error, etc.

Canada or a superior court in any province may, in respect of lands situate within its jurisdiction, upon information, action, bill or plaint, respecting such lands, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and, upon a registry of such decree in the Department of Indian Affairs, such patents shall be void to all intents.

Effect of
registry of
decree.

Practice in
such cases.

2. The practice in such cases shall be regulated by orders, from time to time, made by the said courts respectively. R.S., c. 43, s. 53; 53 V., c. 29, s. 5.

Timber Lands.

Licenses to
cut trees,
by whom
and how to
be granted.

73. The Superintendent General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on ungranted Indian lands, or on reserves at such rates and subject to such conditions, regulations and restrictions, as are, from time to time, established by the Governor in Council, and such conditions, regulations and restrictions shall be adapted to the locality in which such reserves or lands are situated. R.S., c. 43, s. 54.

For what
time

As to error
in descrip-
tion, etc.

74. No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of any incorrectness of survey or other error or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserve, or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. R.S., c. 43, s. 55.

License must
describe
lands and
kind of
trees to be
cut.

75. Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep possession of the land so described, subject to such regulations as are made.

To vest prop-
erty in
trees cut.

2. Every license shall vest in the holder thereof all rights of property in all trees of the kind specified, cut within the limits of the license during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent.

Rights of
licensee as to
trespassers.

3. Every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber or other product thereof, if found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any.

4. All proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired. 61 V., c. 34, s. 4. Continuing proceedings.

76. Every person who obtains a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or other timber, manufactured and carried away under such license, which return shall be sworn to by the holder of the license or his agent, or by his foreman. Return to be made by licensee.

2. Every person who refuses or neglects to make such return, or who evades, or attempts to evade, any regulation made by the Governor in Council in that behalf, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly. R.S., c. 43, s. 57. Effect of neglect to make such return.

77. All trees cut, and the logs, timber or other product thereof, shall be liable for the payment of the dues thereon, so long as and wheresoever the same, or any part thereof, are found, whether in the original logs or manufactured into deals, boards or other stuff. Trees cut and their product liable for payment of dues.

2. All officers or agents entrusted with the collection of such dues may follow and seize and detain the same wherever they are found until the dues are paid or secured. R.S., c. 43, s. 58. May be seized and detained.

78. No instrument or security taken for dues, either before or after the cutting of the trees, as collateral security, or to facilitate collection, shall in any way affect the lien for such dues, but the lien shall subsist until the said dues are actually discharged. R.S., c. 43, s. 59. Security taken for dues not to affect lien.

79. If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, the Superintendent General may order a sale of the said timber to be made after sufficient notice. Sale of seized timber after certain delay.

2. The net proceeds of such sale, after deducting the amount of dues, expenses, and costs incurred, shall be handed over to the owner or claimant of such timber, upon his applying therefor and proving his right thereto. R.S., c. 43, s. 60. Proceeds.

80. Any officer or agent acting under the Superintendent General may seize or cause to be seized in His Majesty's name any logs, timber, wood or other products of trees, or any trees themselves, cut without authority on Indian lands or on a reserve, wherever they are found, and place the same under proper custody until a decision can be had in the matter from competent authority. 50-51 V., c. 33, s. 6. Seizure of trees cut without authority.

Presumption
of law in
case of
mixture of
timber cut
on Indian
lands or
reserves,
with timber
cut else-
where.

81. When the logs, timber, wood, or other products of trees, or the trees themselves cut without authority on Indian lands or on a reserve, have been made up or intermingled with other trees, wood, timber, logs, or other products of trees into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on Indian lands or on a reserve without license, from the other timber with which it is made up or intermingled, the whole of the timber so made up or intermingled shall be held to have been cut without authority on Indian lands or on a reserve, and shall be seized and forfeited and sold by the Superintendent General or any officer or agent acting under him, unless evidence satisfactory to him is adduced showing the probable quantity not cut on Indian lands or on a reserve. 50-51 V., c. 33, s. 7.

Seizing
officer may
command
assistance in
name of
Crown.

82. Every officer or person seizing trees, logs, timber or other products of trees in the discharge of his duty under this Part may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. R.S., c. 43, s. 64.

Burden of
proof, in
certain
cases, to be
on claimant.

83. Whenever any trees, logs, timber or other product of trees are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Part, and any question arises whether said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. R.S., c. 43, s. 65.

Condemna-
tion in
default of
notice of
claim.

84. All trees, logs, timber or other product of trees seized under this Part shall be deemed to be condemned unless the person from whom they are seized, or the owner thereof within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent General that he claims, or intends to claim them, and unless within one month from the day of giving such notice he initiates, in some court of competent jurisdiction, proceedings for the purpose of establishing his claim.

Sale.

2. In default of such notice and initiation of proceedings, the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale by the said officer or agent of such trees, logs, timber or other products. 61 V., c. 34, s. 5.

Proceedings
for trial of
validity of
seizure.

85. Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the provisions of Part XV. of the Criminal Code, try and determine such seizures; and may, 1468 pending

pending the trial, order the delivery of the trees, or the logs, timber or other product to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation.

Delivery on security by bond.

2. Such bond shall be taken in the name of the Superintendent General, for His Majesty, and shall be delivered up to and kept by the Superintendent General.

Bond to be given.

3. If such seized trees, logs, timber or other product are condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. R.S., c. 43, s. 67.

Value of condemned trees to be paid to the Superintendent General.

86. Every one who avails himself of any false statement or false oath to evade the payment of dues under this Part, shall forfeit the timber in respect of which the dues are attempted to be evaded. R.S., c. 43, s. 68.

Forfeiture of timber for attempt to evade payment.

Management of Indian Moneys.

87. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or the proceeds of any timber on any Indian lands or a reserve shall, subject to the provisions of this Part, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Part. R.S., c. 43, s. 69.

Indian moneys to be dealt with as heretofore.

88. The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same excessive.

Reduction of purchase money due on sales of Indian lands.

2. A return setting forth all the reductions and remissions made under this section during the fiscal year shall be submitted to both Houses of Parliament within twenty days after the expiration of such year, if Parliament is then sitting, and, if Parliament is not then sitting, within twenty days after the opening of the next ensuing session of Parliament. 58-59 V., c. 35, s. 8.

Returns of reductions to Parliament.

89. With the exception of such sum not exceeding fifty per centum of the proceeds of any land, and not exceeding ten per centum of the proceeds of any timber or other property, as is agreed at the time of the surrender to be paid to the members of the band interested therein, the Governor in Council may, subject to the provisions of this Part, direct how and in what manner, and by whom, the moneys arising from the disposal of Indian lands, or of property held or to be held in trust for

Investment and management of Indian funds may be regulated by Governor in Council.

Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians, shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given.

In what particulars.

2. The Governor in Council may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time, to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Part. and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they had in lands taken from them, for the construction or repair of roads, bridges, ditches and watercourses on such reserves or lands, for the construction and repair of school buildings and charitable institutions, and by way of contribution to schools attended by such Indians. 6 E. VII., c. 20, s. 1.

Power of Governor in Council as to direction of expenditure of capital of band.

90. The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or in the purchase of cattle for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital. 57-58 V., c. 32, s. 11.

Proceeds of sales to be paid to Minister of Finance.

91. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Minister of Finance to the credit of the Indian fund. R.S., c. 43, s. 71.

Powers of Superintendent General

92. The Superintendent General may,—

- (a) stop the payment of the annuity and interest money of as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or who is separated from his family by imprisonment, and apply the same towards the support of the wife or family of such Indian; or,
- (b) stop the payment of the annuity and interest money of any Indian parent of an illegitimate child, and apply the same to the support of such child; or,
- (c) stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who deserts her husband or family and lives immorally with another man, and apply the same to the support of the family so deserted; or,

(d) whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute Indians. R.S., c. 43, s. 74; 61 V., c. 34, ss. 7 and 8.

Election of Chiefs.

93. Whenever the Governor in Council deems it advisable for the good government of a band, to introduce the elective system of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years.

Governor in Council may provide for election of chiefs.

2. The councillors or headmen may be in the proportion of two for every two hundred Indians.

Councillors or headmen.

3. No band shall have more than one chief and fifteen councillors or headmen.

Numbers.

4. Any band composed of at least thirty members may have a chief. 61 V., c. 34, s. 9.

Band of 30.

94. Life chiefs and councillors or headmen now living may continue to hold rank until death or resignation, or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetency.

As to present life chiefs.

2. In the event of the Governor in Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid. 61 V., c. 34, s. 9.

Election required for exercise of powers.

95. An election may be set aside by the Governor in Council, on a report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality, or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election.

Reason for which an election may be set aside.

2. Every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for a period not exceeding six years, if the Governor in Council, on the report of the Superintendent General, so directs. 61 V., c. 34, s. 9.

Punishment of fraud at election.

96. Any elected or life chief and any councillor or headman, or any chief or councillor or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be deposed by the Governor in Council and declared ineligible to hold the office of chief or councillor or headman for a period not exceeding three years. 61 V., c. 34, s. 9.

Grounds on which chief, etc., may be deposed.

Regulations to be made by Chiefs.

Chiefs to
make regula-
tions as to
schools.

97. The chief or chiefs of any band in council may, subject to confirmation by the Governor in Council, make rules and regulations as to the religious denomination to which the teacher of the school established on the reserve shall belong.

Denomina-
tions.

2. If the majority of the band belongs to any one religious denomination, the teacher of the school established on the reserve shall belong to the same denomination.

Minority.

3. The Protestant or Catholic minority of any band may, with the approval of and under regulations made by the Governor in Council, have a separate school established on the reserve. R.S., c. 43, s. 76.

Other cases.

98. The chief or chiefs of any band in council may likewise and subject to such confirmation, make rules and regulations as to,—

Health.

(a) the care of the public health;

Order.

(b) the observance of order and decorum at assemblies of the Indians in general council, or on other occasions;

Intemper-
ance.

(c) the repression of intemperance and profligacy;

Trespass.

(d) the prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle;

Roads, etc.

(e) the construction and maintenance of watercourses, roads, bridges, ditches and fences;

School
houses.

(f) the construction and repair of school houses, council houses and other Indian public buildings, and the attendance at school of children between the ages of six and fifteen years;

Pounds.

(g) the establishment of pounds and the appointment of pound-keepers;

Locating of
land.

(h) the locating of the band in their reserves, and the establishment of a register of such locations;

Weeds.

(i) the repression of noxious weeds.

Governor in
Council may
provide for
punishment
for violation.

2. The Governor in Council may by the rules and regulations aforesaid provide for the imposition of punishment by fine, penalty or imprisonment, or both for violation of any of such rules or regulations.

Limit of
penalty.

3. The fine or penalty shall in no case exceed thirty dollars, and the imprisonment shall in no case exceed thirty days.

Criminal
Code to
apply.

4. The proceedings for the imposition of such punishment shall be taken under Part XV. of the Criminal Code. R.S., c. 43, s. 76.

Taxation.

Liability of
Indians to
taxation.

99. No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds, in his individual right, real estate under a lease or in fee simple, or personal property outside of the reserve or special reserve, in which case he shall be liable to be taxed for such real or

personal property at the same rate as other persons in the locality in which it is situate. R.S., c. 43, s. 77.

100. No taxes shall be levied on the real property of any Indian, acquired under the enfranchisement clauses of this Part, until the same has been declared liable to taxation by proclamation of the Governor in Council, published in the *Canada Gazette*. R.S., c. 43, s. 77.

As to taxes on property of an enfranchised Indian.

101. All land vested in the Crown or in any person in trust or for the use of any Indian or non-treaty Indian or any band or irregular band of Indians or non-treaty Indians shall be exempt from taxation, except those lands which, having been surrendered by the bands owning them, though unpatented, have been located by or sold or agreed to be sold to any person; and, except as against the Crown and any Indian located on the land, the same shall be liable to taxation in like manner as other lands in the same locality: Provided that nothing herein contained shall interfere with the right of the Superintendent General to cancel the original sale or location of any land, or shall render such land liable to taxation until it is again sold or located. 51 V., c. 22, s. 3.

Exemption from taxation.

Legal Rights of Indians.

102. No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the last three preceding sections: Provided that any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid. R.S., c. 43, s. 78.

No lien or charge to be taken on property of Indians.

103. Indians and non-treaty Indians shall have the right to sue for debts due to them, or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them: Provided that, in any suit or action between Indians, or in any case of assault in which the offender is an Indian, no appeal shall lie from any judgment, order or conviction by any police magistrate, stipendiary magistrate, or two justices of the peace or an Indian agent, when the sum adjudged or the penalty imposed does not exceed ten dollars. R.S., c. 43, s. 79.

As to rights of action by Indians.

104. No pawn taken from any Indian or non-treaty Indian for any intoxicant shall be retained by the person to whom such pawn is delivered; but the thing so pawned may be sued for and shall be recoverable, with costs of suit, in any court of competent jurisdiction by the Indian or non-treaty Indian who pawned the same. R.S., c. 43, s. 80.

Things pawned by Indians for intoxicants not to be retained.

Exemption
from seizure.

105. No presents given to Indians or non-treaty Indians, and no property purchased or acquired with or by means of any annuities granted to Indians, or any part thereof, and in the possession of any band of such Indians, or of any Indian of any band or irregular band, shall be liable to be taken, seized or distrained for any debt, matter or cause whatsoever.

Traffic in
presents and
property
restricted.

2. No such presents or property shall, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories be sold, bartered, exchanged, or given by any band or irregular band of Indians, or any Indian of any such band to any person or Indian other than an Indian of such band.

Animals,
farming im-
plements,
etc., deemed
presents.

3. Animals given to Indians under treaty stipulations, and the progeny thereof, and farming implements, tools and any other articles given to Indians under treaty stipulations shall be held to be presents within the meaning of this section.

Sale, etc.,
null and
void.

4. Every such sale, barter, exchange or gift shall be null and void unless such sale, barter, exchange or gift is made with the written assent of the Superintendent General or his agent. R.S., c. 43, s. 81; 53 V., c. 29, s. 7.

Presents, un-
lawfully in
possession of
any person,
may be
seized.

106. If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of the last preceding section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and shall deal therewith as the Superintendent General directs. R.S., c. 43, s. 81.

Enfranchisement.

Special ap-
plication of
this Part.

107. The provisions of this Part respecting enfranchisement of Indians shall not apply to any band of Indians in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or the Territories, except in so far as such provisions are, by proclamation of the Governor in Council, from time to time, extended to any band of Indians in any of the said provinces or territories. R.S., c. 43, s. 82.

Proceedings
for enfran-
chisement.

108. Whenever any male Indian or unmarried Indian woman, of the full age of twenty-one years, makes application to the Superintendent General to be enfranchised, the Superintendent General shall instruct the agent of the band of which the applicant is a member, to call upon the latter to furnish a certificate, under oath, before a judge of any court of justice, by the priest, clergyman or minister of the religious denomination to which the applicant belongs, or by a stipendiary magistrate or two justices of the peace, to the effect that to the best of the knowledge and belief of the deponent or deponents, the

applicant for enfranchisement is, and has been for at least five years previously, a person of good moral character, temperate in his or her habits, and of sufficient intelligence to be qualified to hold land in fee simple, and otherwise to exercise all the rights and privileges of an enfranchised person. R.S., c. 43, s. 83.

109. Upon receipt of such a certificate, the agent shall, with the least possible delay, submit the same to a council of the band of which the applicant is a member; and he shall then inform the Indians assembled at such council, that thirty days will be given within which affidavits made before a judge or a stipendiary magistrate will be received, containing reasons, if any there are, of a personal character affecting the applicant, why such enfranchisement should not be granted to the applicant. R.S., c. 43, s. 84.

To be submitted to council of band.

110. At the expiration of the thirty days aforesaid, the agent shall forward to the Superintendent General all affidavits which have been filed with him in the case, as well as one made by himself before a judge or a stipendiary magistrate, containing his reasons for or against the enfranchisement of the applicant.

Affidavits to be sent to Superintendent General.

2. If the Superintendent General, after examining the evidence, decides in favour of the applicant, he may grant to the applicant a location ticket for the land occupied by him or her as a probationary Indian, or for such proportion thereof as appears to the Superintendent General fair and proper. R.S., c. 43, s. 85.

Location ticket to be granted.

111. Every Indian who is admitted to the degree of doctor of medicine, or to any other degree, by any university of learning, or who is admitted, in any province of Canada, to practise law, either as an advocate, a barrister, solicitor or attorney, or a notary public, or who enters holy orders, or who is licensed by any denomination of christians as a minister of the gospel, may, upon petition to the Superintendent General, *ipso facto* become and be enfranchised under this Part, and he shall then be entitled to all the rights and privileges to which any other member of the band to which he belongs would be entitled if he was enfranchised under the provisions of this Part.

Certain educational acquirements to confer enfranchisement.

2. The Superintendent General may give him a suitable allotment of land from the lands belonging to the band of which he is a member: Provided that, if he is not the recognized holder of a location on the reserve by ticket or otherwise, he shall first obtain the consent of the band and the approval of the Superintendent General to such allotment. R.S., c. 43, s. 86.

Allotment in such case.

112. After the expiration of three years, or, if the conduct of such Indian has not been satisfactory, after such longer period

Patent may issue after probation.

period as the Superintendent General deems necessary, the Governor in Council may, on the report of the Superintendent General, order the issue of letters patent, granting to such Indian the land in fee simple, which has been allotted to him by location ticket.

Conditions. 2. Such letters patent shall contain a provision that such Indian shall not have power to sell, lease or otherwise alienate the land except with the sanction of the Governor in Council.

Compliance not necessary. 3. In such cases compliance with the provisions of this Part respecting leases or surrender of lands in a reserve shall not be necessary. R.S., c. 43, s. 87.

Enfranchised Indian to declare name chosen and be known by same.

113. Every such Indian shall, before the issue of such letters patent, declare to the Superintendent General the name and surname by which he wishes to be enfranchised and thereafter known, and, on his receiving such letters patent, in such name and surname, he shall be held to be enfranchised, and he shall thereafter be known by such name or surname; and, if such Indian is a married man, his wife and minor unmarried children shall also be held to be enfranchised.

Wife and minor children also enfranchised.

2. From the date of such letters patent, the provisions of this Part and of any Act or law making any distinction between the legal rights, privileges, disabilities and liabilities of Indians and those of His Majesty's other subjects, shall cease to apply to such Indian, or his wife or his minor unmarried children, and he and they shall no longer be deemed Indians within the meaning of the laws relating to Indians, except in so far as regards their right to participate in the annuities and interest moneys, and rents and councils of the band to which they belonged. R.S., c. 43, s. 88.

Children attaining their majority before their father's probation expires.

114. Any children of a probationary Indian, who, having been minors and unmarried when the probationary ticket was granted to such Indian, arrive at the full age of twenty-one years before the letters patent are issued to such Indian, may, at the discretion of the Governor in Council, receive letters patent in their own names, subject to the same restrictions and reservations as are contained in the letters patent issued to their parent, for their respective shares of the land allotted under the said ticket, at the same time that letters patent are granted to their parent. R.S., c. 43, s. 88.

Children found to be qualified or being married.

115. If any Indian child who arrives at the full age of twenty-one years, during his or her parent's probationary period, is not qualified for enfranchisement, or if any child of such parent, who was a minor at the commencement of such period, is married during such period, a quantity of land equal to the share of such child shall be deducted, in such manner as the Superintendent General directs, from the allotment made to

such Indian parent on receiving his probationary ticket. R.S., c. 43, s. 88.

116. The children of any widow who becomes either a probationary or enfranchised Indian shall be entitled to the same privileges as those of a male head of a family in like circumstances. R.S., c. 43, s. 90.

Children of widow, enfranchised.

117. Whenever any member of a band, for three years immediately succeeding the date on which he was granted letters patent upon his enfranchisement as aforesaid, or for any longer period that the Superintendent General deems necessary, by his exemplary good conduct and management of property proves that he is qualified to receive his share of the moneys of such band, the Governor in Council may, on the report of the Superintendent General to that effect, order that the said Indian be paid his share of the capital funds at the credit of the band, or his share of the principal of the annuities of the band, estimated as yielding five per centum out of such moneys as are provided for the purpose by Parliament.

Payment to individual Indian of share of moneys of band.

2. If such Indian is a married man he shall be paid his wife's and minor unmarried children's shares of such funds and principal moneys, and if such Indian is a widow, she shall also be paid her minor unmarried children's shares. 58-59 V., c. 35, s. 4.

Married men and widows' shares.

118. The unmarried children of such married Indians who, during the probationary period for payment of such moneys become of age, if qualified by the character for integrity, morality and sobriety which they bear, shall receive their own share of such moneys, when their parents are paid.

Shares of unmarried children of full age.

2. If not so qualified, before they receive payment of such moneys, they must themselves pass through the probationary period. 58-59 V., c. 35, s. 4.

Probationary period required.

119. All such Indians, and their unmarried minor children, who are paid their shares of the principal moneys of their band, as aforesaid, shall thenceforward cease, in every respect, to be Indians of any class within the meaning of this Part, or Indians within the meaning of any other Act or law. 58-59 V., c. 35, s. 4.

Enfranchisement of individual Indians so receiving shares.

120. If any probationary Indian fails in qualifying to become enfranchised, or dies before the expiration of the required probation, his claim, or the claim of his heirs, to the land for which a probationary ticket was granted, or the claim of any unqualified Indian, or of any Indian who marries during his or her parent's probationary period, to the land deducted under the operation of this Part from his or her parent's probationary allotment, shall, in all respects, be the same as that

If Indian fails to qualify or dies before expiration of probation.

1477 conferred

R.S., 1906.

conferred by an ordinary location ticket under this Part. R.S., c. 43, s. 89.

Rules for
allotting
lands to pro-
bationary
Indians.

Proviso.

121. In allotting land to probationary Indians, the quantity to be allotted to the head of a family shall be in proportion to the number of such family, compared with the total quantity of land in the reserve, and the whole number of the band: Provided that the Superintendent General may determine what quantity shall be allotted to each member for enfranchisement purposes, and that each female of any age, and each male under fourteen years of age, shall receive at least one-half the quantity allotted to each male of fourteen years of age and over. R.S., c. 43, s. 91.

Indians not
members of
the band
permitted to
reside on
reserve.

122. Every Indian who is not a member of the band, and every non-treaty Indian, who, with the consent of the band and the approval of the Superintendent General, has been permitted to reside upon the reserve, or to obtain a location thereon, may, on being assigned a suitable allotment of land by the Superintendent General for enfranchisement, become enfranchised on the same terms and conditions as a member of the band: Provided that such enfranchisement shall not confer upon such Indian any right to participate in the annuities, interest moneys, rents or councils of the band.

Effect of
enfranchis-
ing.

2. Such enfranchisement shall confer upon such Indian the same legal rights and privileges, and make such Indian subject to such disabilities and liabilities as affect His Majesty's other subjects. R.S., c. 43, s. 92.

Provision
when band
decides that
all its mem-
bers may
become en-
franchised.

123. If any band, at a council summoned for the purpose according to their rules, and held in the presence of the Superintendent General, or an agent duly authorized by him to attend such council, decides to allow every member of the band who chooses, and who is found qualified, to become enfranchised, and to receive his or her share of the principal moneys of the band, and sets apart for each such member a suitable allotment of land for the purpose, any applicant belonging to such band, or the wife and children of any such applicant, may, after such decision, be dealt with as provided in the foregoing provisions respecting enfranchisement and the payment to enfranchised Indians of their shares of the capital funds at the credit of the band or of the estimated principal of the annuities of the band to which they are entitled. 58-59 V., c. 35, s. 5.

Offences and Penalties.

Residing,
etc., upon
any reserve
without
authority.

124. Every person, or Indian other than an Indian of the band, who, without the authority of the Superintendent General, resides or hunts upon, occupies or uses any land or marsh, or who resides upon or occupies any road, or allowance for

road, running through any reserve belonging to or occupied by such band shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month or to a penalty not exceeding ten dollars and not less than five dollars, with costs of prosecution, half of which penalty shall belong to the informer. 57-58 V., c. 32, s. 2.

Penalty.

125. Any person or Indian who, being lawfully required by an Indian agent, a chief of the band occupying a reserve, or a constable,—

Refusing to remove from reserve on demand of chief.

- (a) to remove with his family, if any, from the land, marsh, road, or allowance for road upon which he is or has settled or is residing or hunting, or which he occupies; or,
- (b) to remove his cattle from such land or marsh; or,
- (c) to cease fishing in any marsh, river, stream or creek on or running through a reserve; or,
- (d) to cease using, occupying, settling or residing upon any land, river, stream, creek, marsh, road or allowance for a road in a reserve;

fails to comply with such requirement, shall, upon summary conviction, be liable to a penalty of not less than five dollars and not more than ten dollars for every day during which such failure continues, and, in default of payment, to be imprisoned for a term not exceeding three months. 54-55 V., c. 30, s. 1.

Penalty.

126. Every Indian, not being an Indian of the band, who, in the case where shooting privileges over a reserve or part of a reserve, or fishing privileges in any marsh, pond, river, stream or creek upon or running through a reserve, have, with the consent of the Indians of the band, been leased or granted to any person, and, in such case, every person not, under such lease or grant, entitled so to do, who hunts, shoots, kills or destroys any game animals or birds, or who fishes for, takes, catches or kills any fish to which such exclusive privilege extends, upon the reserve or part of a reserve, or in any marsh, pond, river, stream or creek covered by such lease or grant, shall, in addition to any other penalty or liability thereby incurred, be liable, on summary conviction, for every such offence to a penalty not exceeding ten dollars and not less than five dollars, and, in default of payment, to imprisonment for any term not exceeding one month. 54-55 V., c. 30, s. 4.

Shooting or fishing on reserved territory.

Penalty.

127. Every person, or Indian, other than an Indian of the band to which the reserve belongs, who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose, cuts, carries away or removes from any of the lands, roads or allowances for roads in a reserve, any of the trees, saplings, shrubs, underwood, timber, cordwood or part of a tree, or hay, or removes any

Trespassing on reserves and cutting or removing

of the stone, soil, minerals, metals or other valuables from the said lands, roads or allowances for roads, shall, on summary conviction thereof before any stipendiary magistrate, police magistrate or any two justices of the peace or an Indian agent, incur in each case the costs of prosecution and,—

Trees.

(a) for every tree he cuts, carries away or removes, a penalty of twenty dollars;

Timber.

(b) for cutting, carrying away or removing any of the saplings, shrubs, underwood, timber, cordwood or part of a tree or hay, if under the value of one dollar, a penalty of four dollars; and, if over the value of one dollar, a penalty of twenty dollars;

Stone, soil, minerals.

(c) for removing any of the stone, soil, minerals, metals, or other valuables aforesaid, a penalty of twenty dollars.

Punishment in case of default of payment.

2. In default of immediate payment of the said penalties and costs, such magistrate, justices of the peace, or Indian agent may issue a warrant directed to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person or Indian liable to pay the same, or may, without proceeding by distress and sale, upon non-payment of such penalties and costs, order the person or Indian liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies for a term not exceeding thirty days, if the penalty does not exceed twenty dollars, or for a term not exceeding three months, if the penalty exceeds twenty dollars.

Issue of warrant, etc.

3. The Superintendent General, or such other officer or person as he shall authorize in that behalf may issue the warrant on any such conviction: or may, without proceeding by distress and sale, make such order upon such conviction as such magistrate, justices of the peace or Indian agent could make; and similar proceedings may be had upon the warrant so issued as if it had been issued by the magistrate, justices of the peace or Indian agent before whom the person was convicted.

Commitment in default of distress.

4. If upon the return of any warrant for distress and sale, the amount thereof has not been made, or if any part of it remains unpaid, such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars.

Application of penalties.

5. All such penalties shall be paid to the Minister of Finance, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs. R.S., c. 43, s. 26; 53 V., c. 29, s. 3.

128. Every Indian of the band who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose,—

Indians without a license, trespassing on reserves.

(a) cuts, carries away or removes from land in a reserve held by another Indian under a location title or by an Indian otherwise recognized by the Department as the occupant thereof any of the trees, cordwood, or part of a tree, saplings, shrubs, underwood, timber or hay thereon, or removes from such land any of the stone, soil, minerals, metals or other valuables; or,

(b) cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family any trees, timber, cordwood or part of a tree, saplings, shrubs, underwood or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom, for sale, as aforesaid; or,

(c) unless with the consent of the band and the approval of the Superintendent General, cuts or uses any pine or large timber for any purpose other than for building on his own location or farm;

shall incur the penalties provided in the last preceding section in respect to Indians of other bands and other persons. Penalty.

2. The same proceedings may be had for the recovery thereof as are provided for in the said section. 50-51 V., c. 33, s. 4. Proceedings for recovery.

129. Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the province of Manitoba, Saskatchewan or Alberta, or the Territories, any grain, root crops or other produce contrary to regulations made by the Governor in Council in that behalf, shall, on summary conviction before a stipendiary magistrate, police magistrate or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. R.S., c. 43, s. 30. Buying from Indians contrary to regulations of Governor in Council.
 Penalty.

130. Every person who cuts, carries away or removes from any reserve or special reserve, any hard or sugar-maple tree or sapling, or buys or otherwise acquires from any Indian or non-treaty Indian, or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, contrary to regulation made in that behalf by the Governor in Council, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both. R.S., c. 43, s. 32. Cutting and removing trees from reserve contrary to regulations of Governor in Council.
 Penalty.

Trading
without
license.

131. Every person being,—

- (a) an official or employee connected with the inside or outside service of the Department of Indian Affairs; or,
- (b) a missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians; or,
- (c) a school teacher on an Indian reserve; and,
- (d) in the province of Manitoba, Saskatchewan or Alberta, or the Territories;

who, on a reserve, without the special license in writing of the Superintendent General, trades with any Indian or directly or indirectly sells to him any goods or supplies, cattle or other animals, shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and, in addition, to the costs of prosecution before a police magistrate, a stipendiary magistrate, a justice of the peace or the Indian agent for the locality where the offence occurs. 53 V., c. 29, s. 10; 57-58 V., c. 32, s. 10.

Penalty.

Cutting trees
or assisting
in cutting
trees on
Indian lands.

132. If any person without authority, cuts or employs, or induces any other person to cut, or assists in cutting any trees of any kind on Indian lands or on any reserve, or removes or carries away, or employs, or induces or assists any other person to remove or carry away any trees of any kind so cut from any Indian lands or reserve, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market.

Confers no
property or
right to re-
muneration.

If trees can-
not be
seized.

2. When the trees or logs or timber or any products thereof have been removed, so that the same cannot, in the opinion of the Superintendent General, conveniently be seized, he shall, in addition to the loss of his labour and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away.

Penalty.

Recovery of
penalty.

3. Such penalty shall be recoverable with costs at the suit and in the name of the Superintendent General or resident agent in any court having jurisdiction in civil matters to the amount of the penalty.

Proof of
authority.

4. In all such cases, it shall be incumbent on the person charged to prove his authority to cut.

What shall
be sufficient
evidence.

5. The averment of the person seizing or prosecuting that he is duly employed under the authority of this Part shall be sufficient proof thereof, unless the defendant proves the contrary. R.S., c. 43, s. 61.

Buying or
acquiring
presents
given to
Indians.

133. Every person or Indian other than an Indian of the band who, without the written consent of the Superintendent General or his agent, the burden of proof concerning which shall be on the accused, buys or otherwise acquires any presents given

given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians or any part thereof, is guilty of an offence, and liable on summary conviction, to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months. R.S., c. 43, s. 81; 53 V., c. 29, s. 6. Penalty.

134. Every agent for the sale of Indian lands who, within his division, directly or indirectly, except under an order of the Governor in Council, purchases any land which he is appointed to sell, or becomes proprietor of or interested in any such land, during the time of his agency shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. R.S., c. 43, s. 110. Land sale agent purchasing Indian land.

Penalty.

135. Every one who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another directly or indirectly on any pretense or by any device,— Every person

(a) sells, barters, supplies or gives to any Indian or non-treaty Indian, or to any person male or female who is reputed to belong to a particular band, or who follows the Indian mode of life, or any child of such person any intoxicant, or causes or procures the same to be done or attempts the same or connives thereat; or, Selling intoxicants to Indians

(b) opens or keeps or causes to be opened or kept on any reserve or special reserve a tavern, house or building in which any intoxicant is sold, supplied or given; or, Opening and keeping a tavern on a reserve.

(c) is found in possession of any intoxicant in the house, tent, wigwam, or place of abode of any Indian or non-treaty Indian or of any person on any reserve or special reserve, or on any other part of any reserve or special reserve; or, Having intoxicants in his possession in house of Indian.

(d) sells, barters, supplies or gives to any person on any reserve or special reserve any intoxicant; Selling intoxicants on reserve.

shall, on summary conviction before any judge, police magistrate, stipendiary magistrate, or two justices of the peace or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding three hundred dollars and not less than fifty dollars with costs of prosecution, or to both penalty and imprisonment in the discretion of the convicting judge, magistrate, justices of the peace or Indian agent. Penalty.

2. A moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof to His Majesty to form part of the fund for the benefit of that body of Indians or non-treaty Indians with respect to one or more Application of penalty.

members of which the offence was committed. 51 V., c. 22, s. 4; 57-58 V., c. 32, s. 6.

Commander
of vessel
whereon
intoxicants
are sold
guilty of
offence.

136. The commander or person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with costs of prosecution, and in default of immediate payment of such penalty and costs, any person so convicted shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labour, or until such penalty and costs are paid.

Penalty.

Application
of penalties.

2. The penalty shall be applied as provided in the last preceding section. R.S., c. 43, s. 95.

Indians hav-
ing intoxi-
cants and
selling the
same to
Indians.

137. Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. R.S., c. 43, s. 96.

Penalty.

Exception in
case of
illness.

138. No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion.

Proof.

2. The burden of proof that the intoxicant has been so made use of shall be on the accused. R.S., c. 43, s. 98; 53 V., c. 29, s. 8.

Arrest with-
out warrant
of any per-
son or
Indian with
intoxicants

139. Any constable or peace officer may arrest without warrant any person or Indian found gambling, or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable upon summary conviction to imprisonment for a term not exceeding three months or to a penalty not exceeding fifty dollars

Penalty.

and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer. 57-58 V., c. 32, s. 7.

140. The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified; and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may be searched for under a search warrant in that behalf granted by any judge, police magistrate, stipendiary magistrate or justice of the peace, and, if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Department of Indian Affairs, or by any constable, wheresoever found on such land or in such place or on the person of such Indian or non-treaty Indian.

Kegs, etc., in which intoxicants are carried to be forfeited.

Search.

Seizure.

2. On complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on evidence that this Act has been violated in respect of any such intoxicant or of any such keg, barrel, case, box, package, receptacle or vessel, or contents thereof, declare the same forfeited, and cause the same to be forthwith destroyed.

Destruction of kegs, etc.

3. Such judge, magistrate, justice of the peace or Indian agent may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution; and, in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labour, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid.

Indian or person found in possession to be punished. Penalty.

4. A moiety of such penalty shall belong to the prosecutor, and the other moiety to His Majesty for the purpose hereinbefore mentioned. R.S., c. 43, s. 100.

Application of penalty.

141. If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, that any vessel, boat, canoe or conveyance of any description, upon the sea or sea-coast, or upon any river, lake or stream, is employed in carrying any intoxicant, to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the last preceding section mentioned, and sold, and the proceeds thereof paid to His Majesty for the purpose hereinbefore mentioned. R.S., c. 43, s. 101.

Vessels used in carrying intoxicants for Indians, to be forfeited and sold.

Proceeds.

Articles exchanged for intoxicants to be forfeited and sold.

142. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which, in violation of this Act, the consideration, either wholly or in part, is an intoxicant, shall be forfeited to His Majesty and may be seized, as is hereinbefore provided in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to His Majesty, for the purpose hereinbefore mentioned. R.S., c. 43, s. 102.

Introducing intoxicants at Indian council or meeting.

143. Every person who introduces any intoxicant at any council or meeting of Indians held for the purpose of discussing or assenting to a release or surrender of a reserve or portion thereof or for the purpose of assenting to the issuing of a license, and every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence the use of such intoxicant among such Indians during the week before or at or the week after such council or meeting, shall incur a penalty of two hundred dollars recoverable by action in any court of competent jurisdiction.

Application of penalty.

2. A moiety of such penalty shall belong to the informer. R.S., c. 43, s. 103.

Indian intoxicated.

144. Every Indian who is found in a state of intoxication shall be liable on summary conviction thereof to imprisonment for any term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 50-51 V., c. 33, s. 10.

Penalty.

Arrest without warrant of intoxicated Indian.

145. Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty Indian found in a state of intoxication, and convey him to any common gaol, house of correction, lock-up, or other place of confinement, there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent. 50-51 V., c. 33, s. 10.

Refusal to state where intoxicant was procured.

146. If any Indian or non-treaty Indian who has been so convicted, refuses, upon examination, to state or give information of the person from whom, the place where, and the time when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment,

Penalty.

in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. R.S., c. 43, s. 105.

147. Every agent who knowingly and falsely informs, or causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. R.S., c. 43, s. 109.

Agent giving false information as to lands.

Penalty.

148. Every person who, after public notice by the Superintendent General prohibiting the sale, gift, or other disposal to Indians in any part of the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any fixed ammunition or ball cartridge, without the permission in writing of the Superintendent General, sells or gives, or in any other manner conveys to any Indian, in the portion of the said provinces or Territories to which such notice applies, any fixed ammunition or ball cartridge, shall, on summary conviction before any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent, be liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment, within the limits aforesaid, at the discretion of the court before which the conviction is had. R.S., c. 43, s. 113.

Sale, etc., of ammunition when prohibited.

Penalty.

149. Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate any Indian festival, dance or other ceremony of which the giving away or paying or giving back of money, goods or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before, at, or after the celebration of the same, or who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an indictable offence and is liable to imprisonment for a term not exceeding six months and not less than two months: Provided that nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat. 58-59 V., c. 35, s. 6.

Celebrating festivities, dances or ceremonies at which presents are made, or bodies mutilated.

Penalty.

150. Every fine, penalty or forfeiture under this Act, except so much thereof as is payable to an informer or person suing therefor, shall belong to His Majesty for the benefit of the band of Indians with respect to which or to one or more members of which the offence was committed, or to which the

Application of penalties.

Governor in Council may apply the same other-wise.

offender, if an Indian, belongs: Provided that the Governor in Council may from time to time direct that the same be paid to any provincial, municipal or local authority which wholly or in part bears the expense of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law or to secure its due administration, and may in case of doubt decide what band is entitled to the benefit of any such fine, penalty or forfeiture. 57-58 V., c. 32, s. 9.

Evidence and Procedure.

Evidence of unbelieving Indian may be received on his solemn affirmation.

151. Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. R.S., c. 43, s. 120.

Substance of evidence of Indian to be reduced to writing and signed.

152. In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian, by mark if necessary, giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. R.S., c. 43, s. 121.

Indian to be cautioned to tell the truth.

153. The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth, the whole truth and nothing but the truth. R.S., c. 43, s. 122.

Effect of solemn affirmation of Indian.

154. Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. R.S., c. 43, s. 124.

155. The written declaration or examination so made, taken and verified, of any such Indian or non-treaty Indian, as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal proceeding when under the like circumstances the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence.

Written declaration, etc., of Indian may be used in evidence.

2. Copies of any records, documents, books or papers belonging to or deposited in the Department, attested under the signature of the Superintendent General or of the Deputy of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. R.S., c. 43, ss. 123 and 130.

Certified copies of records, official papers, etc., to be evidence.

156. In any order, writ, warrant, summons and proceeding whatsoever made, issued or taken by the Superintendent General, or any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, it shall not be necessary to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent General, or such officer or person, or such stipendiary magistrate, police magistrate, justice of the peace or Indian agent.

Name of offender need not be entered in the warrant in certain cases.

2. If the name is not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him.

What description shall suffice.

3. If no part of the name is given to or known by him, he may describe the person or Indian proceeded against in any manner by which he may be identified.

Where name unknown.

4. All such proceedings containing or purporting to give the name or description of any such person or Indian, as aforesaid, shall *prima facie* be sufficient. R.S., c. 43, s. 28.

Prima facie sufficient.

157. All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition so to do, assist in the execution thereof. R.S., c. 43, s. 29.

Execution of order of Superintendent General by sheriffs, gaolers, etc.

158. In all cases of encroachment upon, or of violation of trust respecting any special reserve, proceedings may be taken in the name of His Majesty, in any superior court, notwithstanding the legal title is not vested in His Majesty. R.S., c. 43, s. 36.

His Majesty's name to be used in certain cases.

Who may
act as justice
or two jus-
tices of the
peace.

159. Any judge of a court, judge of sessions of the peace, recorder, police magistrate or stipendiary magistrate, shall have full power to do alone whatever is authorized by this Part to be done by a justice of the peace or by two justices of the peace. R.S., c. 43, s. 115.

Jurisdiction
in city or
town to give
jurisdiction
in surround-
ing county
or district.

160. Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under this Part, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. R.S., c. 43, s. 116.

Indian agent
or officer
justice of
the peace.

161. Every Indian agent shall for all the purposes of this Act or of any other Act respecting Indians, and with respect to,—

- (a) any offence against the provisions of this Act or any other Act respecting Indians; or,
- (b) any offence against the provisions of the Criminal Code respecting the inciting of Indians to commit riotous acts; or,
- (c) any offence by any Indian or non-treaty Indian against any of the provisions of those parts of the Criminal Code relating to vagrancy and offences against morality;

Jurisdiction,

he *ex officio* a justice of the peace and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or non-treaty Indian charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, is or is not within his ordinary jurisdiction, charge or supervision as an Indian agent. 58-59 V., c. 35, s. 7.

Special juris-
diction.

162. In the provinces of Manitoba, British Columbia, Saskatchewan and Alberta, and in the Territories, every Indian agent shall, for all such purposes and with respect to any such offence, be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, whether or not the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the offence, matter or thing, to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent. 58-59 V., c. 35, s. 7.

163. If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the band, as the case may be. R.S., c. 43, s. 118.

Indian imprisoned not to receive annuity while imprisoned.

General.

164. No Indian or non-treaty Indian resident in the province of Manitoba, Saskatchewan or Alberta, or the Territories, shall be held capable of having acquired or of acquiring a homestead or pre-emption right under any Act respecting Dominion lands, to a quarter-section, or any parcel of land in any surveyed or unsurveyed lands in the said provinces or territories, or the right to share in the distribution of any lands allotted to half-breeds: Provided that,—

Indians not capable of acquiring homestead.

Proviso.

- (a) he shall not be disturbed in the occupation of any plot on which he had permanent improvements prior to his becoming a party to any treaty with the Crown;
- (b) nothing in this section shall prevent the Superintendent General, if found desirable, from compensating any Indian for his improvements on such a plot of land, without obtaining a formal surrender thereof from the band; and,
- (c) nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. R.S., c. 43, s. 126.

Occupation not to be disturbed.

May be compensated for improvements.

Section not to apply to certain Indians.

165. Where shooting privileges over a reserve or part of a reserve, or fishing privileges thereon have, with the consent of the Indians of the band, been leased or granted to any person, it shall not be lawful for any person, not under such lease or grant entitled so to do, or for any Indian other than an Indian of the band, to hunt, shoot, kill or destroy any game animals or birds, or to fish for, take, catch or kill any fish to which such exclusive privilege extends, upon the reserve or part of a reserve. 54-55 V., c. 30, s. 4.

Shooting and fishing privileges.

166. At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Part, those entitled to vote at the council or meeting thereof shall be the male members of the band, of the full age of twenty-one years; and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, or of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. R.S., c. 43, s. 127.

How and by whom chiefs are to be elected.

How consent
may be
granted, if
band has
council.

167. If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. R.S., c. 43, s. 128.

No intoxic-
ants to be
introduced at
any Indian
council meet-
ing.

168. No one shall introduce any intoxicant at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license. R.S., c. 43, s. 103.

Before whom
affidavits are
to be made
under this
Act.

169. All affidavits required under this Act or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the deputy of the Superintendent General, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in, any city, town or municipality, or before any notary public. R.S., c. 43, s. 129.

Publication
of regula-
tions and
laying
before
Parliament.

170. All regulations made by the Governor in Council under this Part shall be published in the *Canada Gazette*, and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. R.S., c. 43, s. 131; 57-58 V., c. 32, s. 12.

Payments
for Indian
annuities for
Ontario and
Quebec.

171. There shall be payable, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, for Indian annuities for Ontario and Quebec, twenty-six thousand six hundred and sixty-four dollars per annum. R.S., c. 4, s. 5.

PART II.

INDIAN ADVANCEMENT.

Interpretation.

Definitions.
'Reserve.'

172. In this Part, unless the context otherwise requires,—
(a) 'reserve' includes two or more reserves, and 'band' includes two or more bands united for the purposes of this Part by the order in council applying it;

(b) 'electors' means the male Indians of the full age of 'Electors.' twenty-one years resident on any reserve to which this Part applies. R.S., c. 44, ss. 1 and 5.

Application of this Part.

173. This Part may be made applicable, as hereinafter Application of Part. provided, to any band of Indians in any of the provinces, or in the Territories, except in so far as it is herein otherwise provided. R.S., c. 44, s. 2.

174. Whenever any band of Indians is declared by the Governor in Council to be considered fit to have this Part When this Part shall apply. applied to it, this Part shall so apply from the time appointed in such order in council. R.S., c. 44, s. 3.

Application of Part I.

175. The provisions of Part I. of this Act shall continue to apply to every band to which this Part is, from time to time, declared to apply, in so far only as they are not inconsistent with this Part: Provided that, if it thereafter appears to the Governor in Council that this Part cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may by order in council, declare that after a day named in the order in council, this Part shall no longer apply to such band, and such band shall thereafter be subject only to Part I., except that by-laws, rules and regulations theretofore made under this Part, and not *ultra vires* of the chiefs in council under Part I., shall continue in force until they are repealed by the Governor in Council. R.S., c. 44, s. 2. Application of Part I. As to by-laws.

Division of Reserves.

176. Every reserve to which this Part is to apply may, by the order in council applying it, be divided into sections, the number of which shall not exceed six, and each section shall have therein, as nearly as is found convenient, an equal number of male Indians of the full age of twenty-one years, or, should the majority of the Indians of the reserve so desire, the whole reserve may form one section, the wishes of the Indians in respect thereto being first ascertained in the manner prescribed in Part I. in like matters, and certified to the Superintendent General by the Indian agent. Division of reserves into sections.

2. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the order in council as *The Indian Reserve*, inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. R.S., c. 44, s. 4; 53 V., c. 30, s. 1. Designation of each.

Nominations for Election of Councillors.

Meeting for
election of
councillors.

177. A meeting of the electors for the purpose of nominating candidates for election as councillors shall be held between the hours of ten o'clock in the forenoon and twelve o'clock at noon, at a place to be appointed by the Indian agent, on a day being one week previous to the day on which the election of councillors is to be held on any reserve as hereinafter provided.

Notice of
meeting.

2. Due notice of such meeting shall be given in the manner customary in the band for calling meetings for public purposes. 53 V., c. 30, s. 3.

Chairman to
preside.

178. The Indian agent, or in his absence such person as is appointed by the Superintendent General, or failing such appointment, a chairman to be chosen by the meeting, shall preside over such meeting and shall take and keep the minutes thereof. 53 V., c. 30, s. 3.

Candidates
and their
nomination.

179. Only Indians nominated at such meeting shall be recognized as, or permitted to become candidates for election as aforesaid; and each nomination to be valid must be made on the motion of an elector of the section of the reserve for the representation whereof the nominee is proposed as a candidate, and the motion must be seconded by another elector of that section. 53 V., c. 30, s. 2.

Time of
nomination.

180. The nominations of the candidates shall, so far as practicable, be made consecutively and previously to any speeches being made by the movers and seconders or by any other persons, but nominations may be made up to the hour of twelve o'clock noon. 53 V., c. 30, s. 3.

Proceedings
after nomi-
nation.

181. If only one candidate for any councillorship is proposed, the Indian agent or chairman shall, at twelve o'clock noon, declare such candidate duly elected; and if two or more candidates are proposed for any councillorship, an election shall be held under the provisions of this Part. 53 V., c. 30, s. 3.

Elections.

First election
of members
of the coun-
cil.

182. On a day and at a place, and between the hours prescribed in the order in council, the electors shall meet for the purpose of electing the members of the council of the reserve. R.S., c. 44, s. 5.

Who shall
be deemed
elected.

183. One or more members to represent each section of the reserve, as provided in such order in council, shall be elected by the electors resident in each section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors.

as the case may be therefor, provided he or they are respectively possessed of, and living in, a house in the reserve. R.S., c. 44, s. 5.

184. The agent for the reserve shall preside at the election, or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may, subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or of such agent or person appointed as aforesaid, admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General.

Who shall
preside at
the election,
and his
powers.

2. In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote. R.S., c. 44, s. 5.

Chairman to
have casting
vote.

Meetings of Council.

185. On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor, and the councillor so elected shall be the chief councillor. R.S., c. 44, s. 6.

First meeting
of council-
lors.

186. The council shall meet for the despatch of business, at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent. R.S., c. 44, s. 9.

Meetings of
the council.

187. At such meeting of the council the agent for the reserve, or his deputy appointed for the purpose with the consent of the Superintendent General, shall,—

Agent for
reserve
may preside
at the
meeting.

- (a) preside, and record the proceedings;
- (b) control and regulate all matters of procedure and form and adjourn the meeting to a time named *à sine die*;
- (c) report and certify all by-laws and other acts and proceedings of the council to the Superintendent General;
- (d) address the council and explain and advise the members thereof upon their powers and duties.

2. No such agent or deputy shall vote on any question to be decided by the council. R.S., c. 44, s. 9.

188. Full faith and credence shall be given in all courts, towns and places whatsoever to any certificate given by such agent

Certificate
given by
agent of
reserve.

See article or deputy under the provisions of paragraph (c) of the last preceding section. R.S., c. 44, s. 9.

Votes. **189.** Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief councillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal.

Quorum. **2.** Four councillors shall be a quorum for the despatch of any business. R.S., c. 44, s. 9.

Term of Office, Vacancies, Etc.

Term of office. **190.** The councillors shall remain in office until others are elected in their stead, and an election for that purpose shall be held in like manner, at the same place and between the like hours on the like day, in each succeeding year, if it is not a Sunday or holiday, in which case it shall be held on the next day thereafter which is not a Sunday or a holiday.

2. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. R.S., c. 44, s. 7.

See article **191.** In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for the next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable.

See article **2.** If the councillor to be replaced is the chief councillor, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor is elected. R.S., c. 44, s. 8.

See article **192.** During the time of any vacancy in the council the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. R.S., c. 44, s. 8.

See article **193.** Every member of a council elected under the provisions of this Part, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of malfeasance of office of any kind, shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act; and the vacancy occasioned thereby shall

be filled in the manner hereinafter provided. R.S. c. 81, s. 11.

Power of Council.

194. The council may, by by-laws, rules or regulations, approved and confirmed by the Superintendent General, provide for the religious denominations in which the teachers or students of the school or schools established at the reserves shall belong, shall be that of the majority of the Indians resident on the reserve; Provided that the Protestant or Roman Catholic colonies on the reserve may also have a separate school or schools, with the approval of and under regulations made by the Government in Council.

Teacher may make the laws as to religious denominations and schools.

1. The council may also make by-laws, rules and regulations, approved and confirmed by the Superintendent General, regulating all or any of the following subjects and purposes, that is to say:—

and Indians &c.

(a) The care of the public health;

Health.

(b) The observation of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions, or generally, on the reserve, by the appointment of constables and viewing of land or houses, or by the adoption of other legitimate means;

Order.

(c) The suppression of intemperance and profligacy;

Intemperance.

(d) The subdivision of the land in the reserve, and the distribution of the same amongst the members of the band; also, the setting apart, for common use, of well-land and land for other purposes;

Division of reserve &c.

(e) The promotion of and the prevention of revenue by Indian cattle, sheep, horses, swine and other domesticated animals; and the establishment of pounds, the appointment of poundkeepers and the regulation of their duties, fees and charges;

Revenue.

(f) The construction and repair of school houses, medical houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years;

School houses, medical houses, &c.

(g) The construction, maintenance and improvement of roads, trails and bridges, and the construction, repair or labour, and other duties of residents on the reserve, in respect thereof; the size and kind of dwellings to be used on the reserve in the winter season, and the manner in which the houses or houses or other houses of dwelling shall be licensed to such dwellings; and the appointment of constables and poundkeepers, and their powers and duties;

Roads, trails, bridges, &c.

(h) The construction and maintenance of waterworks, ditches and drains, and the collection of sewage, the construction and improvement of sanitary works and the preservation of the wood on the reserve buildings, or other works, in the reserve;

Waterworks, ditches, drains, &c.

| | |
|---|--|
| Removal of trespassers. | (i) The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes; |
| Revenue. | (j) The raising of money for any or all of the purposes for which the council may make by-laws as aforesaid, by assessment and taxation of the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve: Provided that the valuation for assessment shall be made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and be subject to revision and correction by the agent for the reserve, and shall come into force only after it has been submitted to him and corrected, if and as he thinks justice requires, and approved by him, and that the tax shall be imposed for the year in which the by-law is made, and shall not exceed one-half of one per centum on the assessed value of the land on which it is to be paid; and provided also that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided, may appeal to the Superintendent General, whose decision in the matter shall be final; |
| Assessments. | |
| Rates. | |
| Payment of Indian share on default. | |
| Appeal. | |
| Appropriation of certain funds. | (k) The appropriation and payment to the local agent, as treasurer, by the Superintendent General, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them; |
| Punishes and enforces (penalty) thereof. | (l) The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any law, rule or regulation made under this Part, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment of taxes, exceed thirty dollars, and the imprisonment shall not exceed thirty days. |
| Tax not recovered. | 2. If any tax authorized by any by-law, or any part thereof, is not paid at the time prescribed by the by-law, the amount unpaid, with the addition of one-half of one per centum thereof, may be paid by the Superintendent General to the treasurer out of the share in any money of the band of the Indian in default; and, if such share is insufficient to pay the tax, or any portion thereof so remaining unpaid, the defaulter shall be deemed to have violated the by-law imposing the tax, and shall incur a penalty therefor equal to the amount of the tax or the balance thereof remaining unpaid, as the case may be. |
| Penalty. | |
| Proceedings for the imposition of punishment. | 3. The proceedings for the imposition of any punishment authorized by this section, or the by-laws, rules or regulations approved and confirmed thereunder, may be taken before one justice of the peace, under Part XV. of the Criminal Code; and the amount of any such penalty shall be paid over to the |

treasurer of the band to which the Indian incurring it belongs for the use of such band.

4. The by-laws, rules and regulations by this section authorized to be made shall, when approved and confirmed by the Superintendent General, have the force of law within and with respect to the reserve, and the Indians residing thereon. R.S., c. 44, s. 10; 53 V., c. 30, s. 2. Approval.

Evidence.

195. A copy of any by-law, rule or regulation under this Part, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect of form, if it is substantially consistent with the intent and meaning of this Part. R.S., c. 44, s. 12. Proof of by-laws, etc.

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TO

THE INDIAN ACT

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